IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 7TH AUGUST 2006 / 16TH SRAVANA 1928

ST.Rev..No. 341 of 2004

TA.593/1999 of S.T.A.T.ADDL.BENCH,ERNAKULAM
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REVISION PETITIONER/RESPONDENT/REVENUE

STATE OF KERALA REP.BY DEPUTY COMMISSIONER (LAW) COMMERCIAL TAXES, ERNAKULAM.

BY SPL. GOVERNMENT PLEADER (SHRI V.V. ASOKAN)

RESPONDENT/ APPELLANT/ASSESSEE

M/S. STERLING FRAM RESEARCH SERVICE (P) LTD., ALAPPATT CROSS ROAD, RAVIPURAM. KOCHI - 16.

BY ADV. SRI.A.KUMAR

THIS SALES TAX REVISION HAVING BEEN FINALLY HEARD ON 07/08/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C. N. RAMACHANDRAN NAIR &
K. M. JOSEPH, JJ.

S.T. REV. NO. 341 OF 2004

Dated this the 7th day of August, 2006

C. R.

JUDGMENT

C. N. Ramachandran Nair, J.

The question raised in the Departmental Revision Case is whether the Sales Tax Appellate Tribunal is justified in upholding claim of sales tax exemption on the respondent's product marketed in the name "Neopeat". Counsel for respondent produced a sample copy of the product which is made of coirpith or coir fibre dust with short length fibres. In the course of defibreing coir pulp, substantial quantity of dust or coir pith is obtained. Long length fibres are recovered and the dust with broken fibre pieces are bonded together and marketed by the respondent under the brand name "Neopeat". The Coir Board certified the product as coirpith coming under Entry 17 of the IIIrd Schedule to the KGST Act and based on it,

respondent claimed exemption from sales tax, which was declined. However, the tribunal allowed the claim of exemption based on the Certificate issued by the Coir Board.

2. Learned Special Government Pleader appearing for the petitioner contended that the item is not organic manure as listed in Entry 17 of the KGST Act and, therefore, not entitled for exemption. Learned counsel for respondent, on the other hand, contended that though the item does not fall under Entry 17, the same will fall under Entry 24 and hence exempt from tax.

3. In order to appreciate the alternate contentions, we have to refer to Entry 17 and Entry 24 of the IIIrd Schedule to the KGST Act which provide for exemption of certain goods from sales tax. The said Entries are extracted hereunder for easy reference:

> "17. Cow dung, wood ash, poultry manure, Green manure, compost, Town compost, Fish manure and Organic manure including neem cake and crushed neem fruit other than those specifically mentioned in the First Schedule.

> **Explanation.-** The term "Organic Manure" referred to in this entry shall mean only the manure produced or derived naturally from plants or animals or from both.
>
> 24. Green or soaked husk, coconut fibre, coir and coir products other than Rubberised coir fibre foam."

4. Wikipedia, the free Encyclopedia describes waste and byproducts of coir as follows:

> "Coir fibers make up about 1/3 of the coconut pulp. The other 2/3 is called the pith or dust, it is biodegradable but takes 20 years to decompose. Once considered useless it is now being used as mulch, soil treatment and a hydroponic growth medium."

5. What is easily not decomposable and what remains stable for twenty years, cannot be said to be organic manure comparable to the items specified in Entry 17. Moreover, organic manure itself was introduced in the Schedule only by Act 7 of 2001 with effect from 23.7.2001 which is much after the year for which the assessment in question arose. However, even though the respondent's argument that the item is exempt as organic manure is unacceptable, we are of the view

that the item will fall under Entry 24 of the IIIrd Schedule referred to above which provided for exemption to all coir and coir products other than rubberised coir fibre foam. If all coir products are granted exemption, we see no reason why a byproduct or dust product should not be declined exemption. The intention of the Legislature to grant exemption to anything and everything purely made from coir and coconut husk, is clear from the above Entry and all what is intended to be taxed is rubberised coir products. In such circumstances, respondent's product which is a byproduct of coconut husk, is entitled to exemption under Entry 24 of IIIrd Schedule to the KGST Act. We, therefore, uphold the order of the tribunal for the reasons stated above and dismiss the ST. Revision Case.

C. N. RAMACHANDRAN NAIR, JUDGE

K.M. JOSEPH, JUDGE

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